

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: David Anton Johnson	Team: Team # 1	CCRB Case #: 200912984	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 08/19/2009 7:45 PM	Location of Incident: F/O, and later inside, § 87(2)(b)	Precinct: 79	18 Mo. SOL 2/19/2011	EO SOL 2/19/2011	
Date/Time CV Reported Thu, 08/20/2009 2:50 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Thu, 08/20/2009 2:50 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Shibu Madhu	13609	944754	079 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Adam Kaszovitz	04332	917804	079 PCT
2. POM Konrad Zakiewicz	13914	945127	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Shibu Madhu	Abuse: PO Shibu Madhu entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.POM Shibu Madhu	Force: PO Shibu Madhu used physical force against § 87(2)(b)	§ 87(2)(b)

Case Summary

On August 20, 2009, § 87(2)(b) filed a walk-in complaint with the CCRB. She alleged that on August 19, 2009, at approximately 7:45pm, Sgt. Kaszovitz and Officers Madhu and Zakiewicz stopped § 87(2)(b) in front of § 87(2)(b) in Brooklyn, for a possible, open-container violation. The incident resulted in the following allegations:

Allegation A –Abuse of Authority: PO Shibu Madhu entered § 87(2)(b) in Brooklyn.

Allegation B –Force: PO Shibu Madhu used physical force against § 87(2)(b)

- § 87(2)(g)

Results of Investigation

Civilian Statements

Complainant: § 87(2)(b)

§ 87(2)(b) was born on § 87(2)(b) She is a black female who is 5’2,” 105 pounds, with black hair and brown eyes.

CCRB Statement

§ 87(2)(b) was interviewed on August 20, 2009, at the CCRB. On August 19, 2009, at 7:45pm, she was sitting on a lawn chair in front of § 87(2)(b) in Brooklyn, with § 87(2)(b) and § 87(2)(b). At the time of the incident, § 87(2)(b) was living at the location, with her daughter, § 87(2)(b) who rents apartment § 87(2)(b) is a brownstone, with two apartments on each of its three floors. There are three to four steps leading up from the street to the front door. Entry into the building requires two separate keys, one for the front door, and another for the door separating the building’s vestibule from the first-floor hallway. A black, unmarked Impala stopped directly in front of the building. The vehicle contained three male, uniformed officers, identified by the investigation as Sgt. Adam Kaszovitz and Officers Shibu Madhu and Konrad Zakiewicz, all from the 79th Precinct. Sgt. Kaszovitz, who she identified as the driver, appeared to be 5’6”, with a medium build and black hair. § 87(2)(b) described PO Madhu as 5’10,” “Indian” and muscular, thirty-to-forty years of age, with medium to dark complexion and short black hair. She described PO Zakiewicz as a 6’, white and muscular officer, who had short, blonde hair and spoke with an accent which sounded “Russian” or “Germanic” to her.

After the vehicle stopped, Officers Madhu and Zakiewicz exited, and as they did, § 87(2)(b) placed a bottled-water she had been drinking by the foot of her chair and abruptly stood up to enter her apartment and take her asthma medication. Officers Madhu and Zakiewicz asked § 87(2)(b) if he was drinking an alcoholic beverage. He said he was not and displayed his bottle of non-alcoholic beer. The officers then walked to the top of the stoop, scanned the nearby area with their flashlights, and asked § 87(2)(b) what she had thrown into the courtyard/patio section of the brownstone. She insisted that she had not thrown anything, and when PO Madhu continued questioning her about why she stood up so abruptly, she responded, “Stop fucking following me,” while unlocking the front door. She entered the vestibule of the building, and PO Madhu followed a few feet behind her while PO Zakiewicz remained on the stoop. § 87(2)(b) then unlocked the door to the first-floor hallway and entered it. Because PO Madhu was within a few

feet of her as he followed her inside the hallway, she had no opportunity to close the door behind her. After the incident, § 87(2)(b) informed § 87(2)(b) that during this time, he told PO Zakiewicz that he had known § 87(2)(b) for many years, that she had not thrown anything and that she lived in the brownstone. PO Zakiewicz apologized and acknowledged that PO Madhu was acting improperly.

As § 87(2)(b) walked down the hallway, she cursed at PO Madhu, telling him that she was in poor health and that he needed to leave. He then pushed her chest, slamming her against the hallway wall. He then grabbed her left arm and tried to turn her around, but she pulled her arm back and ran down towards the apartment of § 87(2)(b). PO Madhu followed her, but before he could enter the apartment, PO Zakiewicz and Sgt. Kaszovitz entered the building hallway, and told PO Madhu that the officers should leave. As this occurred, § 87(2)(b) exited the apartment and suggested that they record the license plate number of the officers' vehicle. § 87(2)(b) then recorded license plate #§ 87(2)(e), § 87(2)(b). Later that evening, § 87(2)(b) traveled to a precinct stationhouse, which she believed was the 77th Precinct. She asked a black female, who appeared to be a civilian working near the front desk, to speak to a sergeant about filing a complaint. The woman found a sergeant, identified by the investigation as Sgt. Kaszovitz, who met with § 87(2)(b) in an administrative room near the front desk. Sgt. Kaszovitz described himself by rank and name, which § 87(2)(b) believed was "Caravaski," but she was uncertain about the correct spelling and pronunciation. He appeared 5'5", white and stocky, with black hair. During this visit § 87(2)(b) was highly agitated, and at one point, the sergeant had to ask her to calm herself. After she explained the incident, he told her that the officers acted inappropriately and that after he reviewed the roll call to identify them, he would speak to them. Because she insisted on filing a complaint herself, the sergeant gave her the phone number and address of the CCRB. (encl. 8a-e)

Victim: § 87(2)(b)

§ 87(2)(b) a black female, was born on § 87(2)(b). § 87(2)(b) is § 87(2)(b)'s daughter.

CCRB Statement

On April 23, 2010, § 87(2)(b) was interviewed at her residence, § 87(2)(b) in Brooklyn. § 87(2)(g)

On August 19, 2009, at approximately 7:45pm, § 87(2)(b) had been inside her apartment, sitting down at the dining-hall table with a clear view of the door and main-hallway of her apartment, when she heard § 87(2)(b)'s voice from the building hallway. § 87(2)(b) had been telling someone to leave her alone and to stop following her. Immediately after, § 87(2)(b) opened the apartment door, entered the hallway of the apartment and yelled for § 87(2)(b) to come to her. An Indian and uniformed male officer, identified by the investigation as PO Madhu, then crossed the threshold of the apartment door, approached § 87(2)(b) from behind and grabbed her by her arms. PO Madhu appeared to be 6'3" to 6'5," Indian, heavier than 250 pounds, with black hair.

PO Madhu then pulled § 87(2)(b) out of the apartment and into the building hallway, causing the two to disappear from § 87(2)(b)'s field of vision. § 87(2)(b) then stood and walked towards her apartment door. As she did, she heard a loud bang that sounded as if something had been forcefully slammed against the wall of the building hallway. When § 87(2)(b) reached the frame of her door, she saw PO Madhu grabbing § 87(2)(b) by her arms and pressing her back against the hallway wall. § 87(2)(b) described the officer identified as PO Zakiewicz as 6', white, with an average build and blonde hair. He was either balding or had an extremely short

haircut. Although she never saw him exit the vehicle, § 87(2)(b) recalled seeing a third uniformed officer, who she was only able to describe as a white male. The investigation identified this officer as Sgt. Kaszovitz. (encl. 9a-f)

Photo Array

On April 23, 2010, § 87(2)(b) was presented with three photo arrays. The first array contained a photo of PO Madhu. § 87(2)(b) selected two photos, one of which was of PO Madhu, which bore resemblance to the officer who slammed § 87(2)(b) against a wall. The second array contained a photo of Sgt. Kaszovitz. § 87(2)(b) did not recognize any of the officers depicted in this array. The third array contained a photo of PO Zakiewicz. § 87(2)(b) only recognized one photo in this area. It did not correspond to PO Zakiewicz. (encl. 9a-f)

Witness: § 87(2)(b)

§ 87(2)(b) was born on § 87(2)(b) He is a black male, who is 5'7," 150 pounds, with black hair and brown eyes.

CCRB Statement

§ 87(2)(b) was interviewed at § 87(2)(b), at Riker's Island, on November 13, 2009. § 87(2)(g) He corroborated that when § 87(2)(b) entered the hallway, PO Madhu followed behind her, grabbed her by the arms and slammed her back against the hallway wall. He then grabbed one of her arms and began twisting it, as if trying to turn her around and face the wall. As he did, he yelled and asked her why she was running away from the officers. Also yelling, § 87(2)(b) replied that she had not done anything and that PO Madhu had no right to follow her inside. PO Madhu then yelled, "Shut up." § 87(2)(b) responded, "You shut up. What's your problem?" During this time, § 87(2)(b) was twenty feet away, on the stoop with PO2, who just inspected his non-alcoholic beer. While PO Madhu tried to turn § 87(2)(b) around, she was able to pull away from the officer and run down the hallway, towards the apartment of her daughter, § 87(2)(b) § 87(2)(b) knocked on the door and entered the apartment. PO Madhu followed § 87(2)(b) but before he reached the apartment one of PO Madhu's partners entered the hallway and the two officers spoke.

(encl. 10a-c)

Attempts to Contact Civilians

On September 18, 2009, § 87(2)(b) was sent a letter. On September 23, he called the undersigned after a voicemail was left for him. He scheduled an appointment for September 28, which he missed. On September 29, he was contacted by phone and scheduled an appointment for October 1, which he missed. On September 30, 2009, he was sent an email to remind him about his appointment, and on October 2, he was sent another letter. On October 5, a voicemail was left for him, and on October 13, he was emailed again. (encl. 22b-c)

NYPD Statements

Subject Officer: PO SHIBU MADHU

PO Shibu Madhu, from the 79th Precinct, was born on § 87(2)(b) He is an Indian male, who is 5'10," 210 pounds, with black hair and brown eyes. From August 19, 2009, to August 20, he worked in uniform, from 5:30pm to 2:05am. He and PO Zakiewicz were assigned to a black, unmarked, Chevy Impala, with RMP #231.

Memo Book

PO Madhu's memo book indicates that at 6:00pm, he saw Sgt. Kaszovitz. He has no entries related to the incident. According to an entry at 10:00pm, he issued a summons to § 87(2)(b) for an § 87(2)(b). The location of the summons was not specified. (encl. 11a-c)

CCRB Statement

On February 19, 2010, PO Madhu was interviewed at the CCRB. The incident involving § 87(2)(b) was described to him, and he was shown a NYS photo identification of her. He did not recall the incident. (encl. 12a-b)

Witness Officer: SGT. ADAM KASZOVITZ

Sgt. Adam Kaszovitz was born on § 87(2)(b). He is a white male, who is 5'6," 200 pounds, with black hair and brown eyes. From August 19, 2009, to August 20, he worked in uniform from 5:15pm to 2:12am, as a conditions sergeant.

Memo Book

Sgt. Kaszovitz' memo book indicates that at 6:05pm, he joined Officers Madhu and Zakiewicz, both from the 79th Precinct, in RMP #231, while PO Zakiewicz acted as operator. At 7:45pm, there is a record of a man being stopped at Marcy Avenue, but it was determined that he was "negative" for "beer." According to the next entry, at 8:00pm, a female from the above stop arrived at the stationhouse and was supplied with information to file a CCRB complaint. (encl. 13a-c)

CCRB Statement

Sgt. Kaszovitz was interviewed at the CCRB on February 23, 2010. On August 19, 2009, at approximately 6:05pm, he joined Officers Shibu Madhu and Konrad Zakiewicz in an unmarked, black Chevy Impala. At approximately 7:45pm, the officers observed a black male, identified by the investigation as § 87(2)(b) sitting alone on the stoop of § 87(2)(b) in Brooklyn, drinking what appeared to be a bottle of beer. Sgt. Kaszovitz did not recall § 87(2)(b) name or pedigree information or the description of the bottle. He described § 87(2)(b) as a private residence, about the size of a small apartment building, with a couple of steps leading up from the sidewalk to the front door. After the officers stopped in front of the location, the three officers exited their vehicle. While Sgt. Kaszovitz and PO Madhu remained on the sidewalk, PO Zackiewicz walked up one to two steps of the stoop and asked § 87(2)(b) if he was drinking. He responded, "No," and the officers then entered their vehicle and returned to the stationhouse.

At the stationhouse, Sgt. Kaszovitz observed a black female, identified by the investigation as § 87(2)(b) loudly complaining about a stop that she just experienced. Because he is a sergeant, Sgt. Kaszovitz confronted her and asked what her issue was. She complained that officers had stopped her and § 87(2)(b) in front of § 87(2)(b) when § 87(2)(b) had not even been drinking. She insisted that officers harassed her because they had nothing better to do. She was very upset and cursed. Sgt. Kaszovitz found her account disjointed and had difficulty understanding why she discussed her stitches, scars, surgeries and other medical conditions. Her speech was slurred, and while she did not smell of alcohol, she appeared inebriated. After she finished describing the stop, Sgt. Kaszovitz explained that he had participated in the stop and had not seen her. She responded, "Fuck you," and accused him of lying. Sgt. Kaszovitz explained that she could file a CCRB complaint if she felt so strongly about the incident and her account. She refused to do so at the stationhouse because she distrusted Sgt. Kaszovitz. (encl. 14a-b)

Witness Officer: PO KONRAD ZAKIEWICZ

PO Konrad Zakiewicz was born on § 87(2)(b). He is a 6'3," white male, who weighs 260 pounds, with brown hair and eyes. From August 19, 2009, to August 20, he worked in uniform, from 5:30pm to 2:05am. He and PO Madhu were assigned to a black, unmarked, Chevy Impala, with RMP #231.

Memo Book

According to the memo book of PO Zakiewicz, he and PO Madhu were visited by Sgt. Kaszovitz at 6:00pm. At 7:45pm, an entry indicates that a male was stopped for § 87(2)(b) in front of § 87(2)(b), in Brooklyn. (encl. 15a-b)

CCRB Statement

PO Zakiewicz was interviewed at the CCRB on March 18, 2010. He did not recall the incident, and insisted that when the incident occurred, he was issuing a stop for § 87(2)(b) at a different location (§ 87(2)(b), in Brooklyn). (encl. 16a-b)

NYPD Documents

Command Log of 79th Precinct

On August 19, 2009, at 7:00pm, Sgt. Andrew Chance, of the 79th Precinct, signed his name into the command log. An entry at 8:20pm indicated that § 87(2)(b) visited the stationhouse to make a CCRB complaint, and that she was given the 311 number. The entry identified § 87(2)(b) by name, date of birth and address. (encl. 17a-b)

IAB Document Request #A10/00283

The request was submitted to Fleet Services, for information of any vehicles with license plate #§ 87(2)(e), § 87(2)(e), § 87(2)(e), § 87(2)(e). Fleet Services indicated that the 79th Precinct has a 2007, black, Chevy Impala, with RMP #231 and license plate #§ 87(2)(e), § 87(2)(e). (encl. 18)

Roll Call, Tour 79th Precinct

According to the roll call, Sgt. Kaszovitz was working as a conditions sergeant when the incident occurred. Officers Madhu and Zakiewicz were also working and were assigned to a motor vehicle #231. (encl. 19a-c)

Other Evidence

Status of Civil Proceedings

On § 87(2)(b), § 87(2)(b) filed a Notice of Claim with the City of New York, claiming that she was the victim of excessive force, wrongfully arrest, a civil rights violation, assault and trespass. She sought \$2,000,000 as redress, and no upcoming court dates have been scheduled. (encl. 21a-b)

Civilians' Criminal History

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilians' CCRB History

This is the first CCRB complaint filed by § 87(2)(b) or § 87(2)(b) (encl. 5a-b)

Subject Officers' CCRB History

PO Madhu has been a member of the service for two years, and there are no substantiated CCRB allegations against him. (encl. 4)

Conclusion

Identification of Subject Officers

§ 87(2)(g) § 87(2)(b)'s description of the officer who followed her inside the brownstone, where he slammed her against the hallway wall, matched the pedigree information of PO Madhu, and because neither Sgt. Kaszovitz nor PO Zakiewicz resemble PO Madhu, § 87(2)(g)

Investigative Findings and Recommendations

Allegation A –Abuse of Authority: PO Shibu Madhu entered § 87(2)(b) in Brooklyn.

§ 87(2)(b) alleged that after Sgt. Kaszovitz and Officers Madhu and Zakiewicz stopped § 87(2)(b) in front of § 87(2)(b) in Brooklyn, PO Madhu accused her of suspicious behavior and followed her inside the brownstone, while she told him to stop. She further alleged that once inside the brownstone, PO Madhu grabbed her by the arms and slammed her against the hallway wall. Officer Madhu did not recall the incident and Officer Zakiewicz denied his involvement, and while Sgt. Kaszovitz acknowledged that all three officers stopped § 87(2)(b) in front of the location, he denied that § 87(2)(b) was present at the scene. Sgt. Kaszovitz also maintained that during the entirety of the incident, no officer entered the brownstone or used force.

§ 87(2)(b) described the officers in a manner consistent with their pedigrees, and both § 87(2)(b) and § 87(2)(b) corroborated her descriptions, and § 87(2)(b) identified a photograph of PO Madhu in a photo array. § 87(2)(b) also corroborated her claim that the three officers entered § 87(2)(b) and that PO Madhu entered first. Additionally, § 87(2)(b) corroborated that from her vantage point inside of her apartment she saw Officers Madhu and Zakiewicz inside the building. Moreover, all three civilians testified that § 87(2)(b) was initially outside, that PO Madhu followed her into the building, and that the officers were never granted consent to enter.

§ 87(2)(g)

§ 87(2)(b) is a privately owned residence. The officers lacked a search warrant. According to section 4.03[3][a] of Barry Kamins' New York Search and Seizure, only three conditions will justify a warrantless entry into a private residence: consent to search, exigent circumstances, or hot pursuit (encl. 2a-c). § 87(2)(g)

Allegation B –Force: PO Shibu Madhu used physical force against § 87(2)(b)

§ 87(2)(g)

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] § 87(2)(b) identified PO Madhu as the officer that used force in an officer photo array. § 87(2)(g) [REDACTED] while § 87(2)(b) [REDACTED] walked through the hallway of her brownstone, PO Madhu followed her inside and then slammed her against the hallway wall with enough force to shake the wall and produce a loud noise. Before the slam, he never instructed her to stop and he never attempted to stop her by grabbing her arm or wrist.

NYPD Patrol Guide Procedure 203-11 instructs officers to use the minimum amount of force necessary to effect an arrest (encl. 3a-b). § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Team: 1
Investigator: _____ David A. Johnson May 24, 2010
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date